

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAWRENCE HARTFORD; DOUGLAS
MITCHELL; BRETT BASS; SPORTING
SYSTEMS VANCOUVER, INC.;
SECOND AMENDMENT
FOUNDATION, INC.; AND FIREARMS
POLICY COALITION, INC.,

Plaintiffs,

v.

BOB FERGUSON, in his official capacity
as Washington State Attorney General;
JOHN R. BATISTE, in his official capacity
as Chief of the Washington State Patrol;
JOHN GESE, in his official capacity as
Sheriff for Kitsap County; CLAYTON
MYERS, in his official capacity as Sheriff
for Kittitas County; JOHN HORCH, in his
official capacity as Sheriff for Clark
County; ADAM FORTNOY, in his official
capacity as Sherrieff for Snohomish County;
CHAD M. ENRIGHT, in his official
capacity as County Prosecutor for Kitsap
County; GREGORY L. ZEMPEL, in his
official capacity as County Prosecutor for
Kittitas County; TONY GOLIK, in his
official capacity as County Prosecutor for
Clark County, JASON CUMMINGS, in his
official capacity as County Prosecutor for
Snohomish County,

Defendants.

CASE NO. 3:23-cv-05364-RJB

ORDER GRANTING ALLIANCE
FOR GUN RESPONSIBILITY'S
MOTION TO INTERVENE AS A
DEFENDANT

This matter comes before the Court on Alliance for Gun Responsibility's ("Alliance")
Motion to Intervene as Defendant. Dkt. 25. The Court has considered the pleadings filed
regarding the motion and the remaining file.

1 **I. FACTS AND PROCEDURAL HISTORY**

2 On April 25, 2023, Substitute House Bill 1240 (“HB 1240”) was enacted in the State of
3 Washington. 2023 Wash. Sess. Laws, ch. 162, § 1. HB 1240 prohibits the manufacture,
4 importation, distribution or sale of “assault weapons” with certain exceptions. *Id.* Alliance is a
5 public interest group that spent more than seven years working to enact the restrictions on assault
6 weapons contained in HB 1240. Dkt. 26-1 at 4. It asserts that it assisted in policy research and
7 development, organized public support, communicated with legislators, and organized testimony
8 in support of HB 1240. *Id.*

9 The Plaintiffs, individual gun owners who wish to purchase weapons on the list, a gun
10 dealer, and two associations of gun owners dedicated to Second Amendment advocacy, filed this
11 case on April 25, 2023 alleging that HB 1240 violates their Second Amendment rights, as
12 applied to enactments of Washington through the Fourteenth Amendment. Dkt. 1. On May 5,
13 2023, the Plaintiffs moved for an order preliminarily enjoining enforcement of HB 1240. Dkt.
14 10.

15 On May 11, 2023, Alliance filed the instant motion to intervene as a defendant in this
16 case pursuant to Fed. R. Civ. P. (“Rule”) 24(b)(1), permissive intervention, or, in the alternative,
17 under Rule 24(a), intervention as a matter of right. Dkt. 25. The Plaintiffs opposed the motion
18 (Dkt. 33) and Alliance filed a reply (Dkt. 51). The motion is ripe for review.

19 **II. DISCUSSION**

20 **A. STANDARD**

21 Rule 24(b)(1) provides, in relevant part, that “the court may permit anyone to intervene
22 who . . . has a claim or defense that shares with the main action a common question of law or
23 fact.” Rule 24(b)(3) goes on to provide that “[i]n exercising its discretion, the court must
24

1 consider whether the intervention will unduly delay or prejudice the adjudication of the original
2 parties' rights." In the Ninth Circuit, "permissive intervention requires (1) an independent
3 ground for jurisdiction; (2) a timely motion; and (3) a common question of law and fact between
4 the movant's claim or defense and the main action." *Freedom from Religion Found., Inc. v.*
5 *Geithner*, 644 F.3d 836, 843 (9th Cir. 2011).

6 **B. ALLIANCE'S INTERVENTION**

7 Alliance's motion for permissive intervention pursuant to Rule 24(b)(1) (Dkt. 25) should
8 be granted. There are no grounds from which to conclude that Alliance's intervention will
9 "unduly delay or prejudice the adjudication of the original parties' rights." Rule 24(b)(3).

10 1. Independent Ground for Jurisdiction

11 "[T]he independent jurisdictional grounds requirement does not apply to proposed
12 intervenors in federal-question cases when the proposed intervenor is not raising new claims."
13 *Freedom from Religion Found.* at 844. The Plaintiffs claim that this Court has federal question
14 jurisdiction under 28 U.S.C. § 1331. Dkt. 1 at 3. Alliance does not seek to assert any new state
15 law claims in this case. Dkt. 25. This factor does not apply.

16 2. Timeliness

17 In assessing whether a motion to intervene is timely, courts consider "the stage of the
18 proceeding, prejudice to other parties, and the reason for and length of the delay." *Babbitt* at
19 1397.

20 Alliance's motion to intervene is timely. It was filed at the very beginning of the case - a
21 little over two weeks after the case was filed. There is no showing of prejudice to the other
22 parties. At the time the motion was filed no substantive rulings had issued and no discovery had
23 occurred. There was no delay in filing the motion.

1 3. Common Question of Law and Fact

2 Alliance has demonstrated that there is a common question of law and fact between its
3 defenses and the main action. The Plaintiffs challenge the constitutionality of HB 1240.
4 Alliance's proposed defense of the law addresses the same issues raised by the Plaintiffs'
5 challenge. This Court has previously held that Alliance raised sufficient common questions of
6 law and fact in cases where it sought to intervene in order to defend the constitutionality of
7 measures it helped draft and support. *Sullivan v. Ferguson*, 2022 WL 10428165 at *5 (W.D.
8 Wash. Oct. 18, 2022); *Nw Sch. Of Safety v. Ferguson*, 2015 WL 311522 at *2 (W.D. Wash. Oct.
9 18, 2022).

10 4. Conclusion

11 Alliance's motion to intervene as a defendant under Rule 24(b)(1) should be granted.
12 Alliance's knowledge of the relevant subject matter will provide a helpful perspective that is not
13 necessarily represented by other Defendants. *Sullivan* at 11; *Cal. Dump Truck Owners Ass'n v.*
14 *Nichols*, 275 F.R.D. 303, 309 (E.D. Cal. 2001). The caption should be amended to include it.

15 A public interest group like Alliance is entitled "as a matter of right to intervene in an
16 action challenging the legality of a measure it has supported" if it meets the other requirements
17 of Rule 24(a). *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995). The
18 Court need not reach this alternative ground for intervention as of right under Rule 24(a),
19 however, because permissive intervention should be granted.

20 **III. ORDER**

21 It is **ORDERED** that:

- 22 • Alliance for Gun Responsibility's Motion to Intervene as Defendant (Dkt. 25) **IS**
23 **GRANTED;** and

- The caption **IS AMENDED** to include Alliance for Gun Responsibility as a Defendant.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 6th day of June, 2023.

A handwritten signature in black ink, reading "Robert J. Bryan", written over a horizontal line.

ROBERT J. BRYAN
United States District Judge